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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

CARMEN POWELL, Plaintiff, v. CITY OF CHULA VISTA; CHULA VISTA POLICE DEPARTMENT; DET. RUTH HINZMAN; AGT. ANDERSON; AGT. OYOS; SGT. CERVANTES; AND PERSON ENTITIES UNKNOWN; COUNTY OF SAN DIEGO AND SAN DIEGO COUNTY PROTECTIVE SERVICES WORKERS JULIE SMITH, NADIA NAJORS, MEGAN PETFINGER, REBECCA SLADE AND PERSONS AND ENTITIES UNKNOWN; CHILDREN'S HOSPITAL; DIANA CHASE; NURSE DEBRA DAVIES, LCSW, Defendants.	**Case No.: 07 CV 1836 JAH (JMA)** **NOTICE OF DEFENDANT MORTEZA MIRKARIMI, M.D.'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT** Date: March 3, 2008 Time: 2:30 p.m. Judge: Honorable John A. Houston Room: Courtroom 11

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on March 3, 2008 at 2:30 p.m., or as soon thereafter as the matter may be heard, Defendant MORTEZA MIRKARIMI, M.D. by and through his attorneys of record, will move this court to Dismiss Plaintiff's Complaint For Failure to State a Claim upon which relief may be granted.

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Plaintiff's complaint fails to make a claim which would subject the moving party to liability and it should be dismissed under FRCP 12(b)(6) for failure to state a claim upon which relief can be granted.

MOTION TO DISMISS

Defendant MORTEZA MIRKARIMI, M.D. requests a dismissal of the Complaint, in that the third count for Conspiracy Against Rights, Title 18 U.S.C. section 241, the only count pled against him, fails to state a claim upon which relief can be granted. 18 U.S.C. section 241 does not provide for a private cause of action, and Plaintiff fails to state facts sufficient to establish any cause of action. (18 U.S.C. section 241; Federal Rule of Civil Procedure section 12(b)(6).)

Said Motion will be based upon this Notice, the accompanying Memorandum of Points and Authorities in support of this Motion, and any other matter subject to judicial notice.

Dated: January 24, 2008

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